

# THIS PAMPHLET IS TRUE!!

IT IS A HISTORY OF THE MANNER IN WHICH NEBRASKA BECAME A  
STATE, ELECTED ITS STATE OFFICERS AND ITS FIRST  
U. S. SENATORS, AND ENTERED THE  
AMERICAN UNION.

It is Authenticated by Twenty-one Members of the  
First State Legislature, who Signed it at  
the Session of 1866, July.

## IT WAS NOT WRITTEN BY

C. H. GERE,

AND IT IS ENTIRELY DISSIMILAR FROM HIS NARRATIVE  
OF THE EVENTS HEREIN RECORDED.

### THE NEBRASKA HISTORICAL SOCIETY

*Is Requested to Place this Among its Conserved Truths.*

1866, OMAHA.



Graff

The Newberry Library

The Everett D. Graff Collection  
of Western Americana

4123

On the 19th of April, 1864, Congress passed an act authorizing the people of Nebraska to form a State government. The act provided for an election in May, of members of a convention which should assemble on the fourth of July, and frame a constitution. This instrument was to be presented to the people for their adoption or rejection, in October. The act did not provide for taking the sense of the people upon the fundamental question, whether or not they would become a State. But they asked it and answered it, and in this way: In the election for members of the convention, party lines were not drawn. On one side, candidates favorable to State organization were nominated; on the other, candidates who were pledged to vote for an adjournment, *sine die*, as soon as the convention was organized, and before it proceeded to business. The result was, two-thirds of the members elected were favorable to adjourning, and they were elected by very large majorities. For instance in Douglas, one of the most populous and wealthy counties in the Territory, but forty-five votes were cast for State organization. No record of the election was preserved, but we believe the majority was proportionately as large elsewhere as in that county. Accordingly, when the convention assembled on the fourth of July, 1864, it organized by the election of its officers, and immediately thereupon adjourned, *sine die*.

#### SPRINGING THE QUESTION.

This emphatic expression of popular will, as was generally supposed, laid State organization at rest. At the general election in October, 1865, it was not even suggested. In its platform, adopted at a territorial convention, for nominating candidates for auditor and treasurer, the Republican party did not mention the subject. The Democrats in a very emphatic resolution, declared against any movement which did not provide for taking the popular vote on that subject, divested of all other issues, and before any step was taken towards framing a constitution. Had it been supposed possible that the territorial legislature would draft a constitution, many men who succeeded in obtaining an election to it, would have failed to receive so much as a nomination. For instance, in the delegation from

Otoe county were O. P. Mason and J. B. Bennett of the Council, and J. H. Maxon of the House. These gentlemen, after the legislature assembled, showed themselves to be very ardent friends of the scheme for that body making a State of Nebraska. And yet their county rejected their constitution by a majority of over four hundred votes. So, too, the Cass delegation supported the measure, and their county gave a majority of three hundred and twenty-five against it. Not one of them could have been elected if they had been known to favor State organization.

But after the election the plan was developed. It was proposed now, for the first time, that the legislature should resolve itself into a convention, draft a constitution, and organize a State government. Conscious that such action was an exercise of powers confided to that body neither by the law nor by the people, the attempt was made to obtain petitions numerously signed, praying the two houses to perform this extra service. These petitions were in large numbers sent out of the "executive office," into all parts of the Territory, accompanied by letters urging the parties receiving them to circulate them generally in their neighborhood, obtain signatures and return them. The measure was prosecuted with great energy. Nearly every citizen in the Territory was solicited to sign one of these petitions. With all these efforts only about six hundred names were obtained. The attempt to give the scheme the appearance of a popular movement was confessedly abortive, so that the petitions were never made an apology for the action of the legislature.

#### THE ACTION OF THE LEGISLATURE.

At the opening of the session, a decided majority of the members of the House were opposed to the measure. Among the Republicans, many were determined in their opposition. All the federal officials, Governor Saunders, Chief Justice Kellogg, Secretary Paddock, Indian Superintendent Taylor, and others, made a party question of it. It was given out that no man who opposed it could expect or should receive recognition in the party. Meeting after meeting was held and the matter urged by all the eloquence and sophistry possible, while private conversations were converted into private appeals and private bargains. One by one was won over—promises of office and of contracts and yet more tangible influences doing the work. Chief Justice Kellogg, Secretary Paddock, Mr. Mason and two or three others, now set themselves to draft the con-

stitution which this legislature should adopt. In the calm and undisturbed retirement of private rooms, and under the protection, from interruption, of locks and keys, these gentlemen pursued their work. They produced an instrument suited to their purposes, which the legislature was to adopt at their discretion. Its chief merit was that it provided a cheap government. According to their estimates, its annual expenses would not exceed over twelve thousand dollars. Not a single State officer, except the judges, was to receive as much as a hod-carrier's earnings. The people, it was insisted, were able to support a State government, but were not willing to pay their officers respectable soldier's pay for their services. A respectable State government would, they argued, frighten the people and they would reject the constitution. A cheap government of cheap men answered the purpose designed, inasmuch as the senators in Congress are paid by the United States.

On the fourth day of February, 1866, their constitution was introduced into the Council, accompanied by a joint resolution in these words:

*Resolved*, By the Council and House of Representatives of the Territory of Nebraska. That the foregoing constitution be submitted to the qualified electors of the Territory, for their adoption or rejection, at an election hereby authorized to be held at the time and in the manner specified in the seventh (7th) section of the schedule of said constitution, and that the returns and canvass of the votes cast at said election be made as in said section prescribed.

The constitution was not printed for the use of either house. No amendment was permitted to one of its provisions. A strenuous effort was made to obtain an amendment separating the election upon the adoption or rejection of this instrument from that for State officers; but the decisive answer was, candidates for office under the State organization will support the constitution. The effort therefore failed. On the 8th the resolution passed the House, and on the 9th was approved by the governor.

#### THE CANVASS.

The canvass, such as it was, opened.

Governor Saunders, Chief Justice Kellogg, Secretary Paddock, Major General Thayer, George Francis Train, John I. Redick, Mr. Butler, Republican candidate for governor, and Mr. Kennard, for secretary of State; Major Taffe, Indian Superintendent Irish, and

a large number of others, went into every part of the Territory, into the cities and the hamlets and from house to house, advocating in public speeches and in private conversations the cause of State organization. Every influence, every devise, every false argument and every false statement was pressed into the service; not a single newspaper in the Territory opposed the movement with vigor. Mr. J. Sterling Morton was the only person who spoke publicly against it. He was the Democratic candidate for governor. Party questions required discussion at his hands. Out of deference to those Democrats who favored the measure, he felt constrained not to give it a persistent opposition.

Under circumstances so favorable to the measure the election was held on the 2d of June. It had been given out, in an unofficial way, that the constitution was carried by a majority of 100. The governor, the chief justice and the United States attorney were the canvassing board. To this day no proclamation has been issued by the governor, no document over the names of the board has been published declaring the result. Why this reticence after such efforts to secure the result claimed we cannot conceive.

But it has been questioned, whether of the legally polled votes there was in fact a majority of 100—or any majority at all. We will now endeavor to answer that question.

1. There is in Cass county a precinct known as Rock Bluffs. On the 2d of June an election was regularly held in this precinct, at which 158 votes were polled, a majority of 78 of which were against the constitution. In the county canvass, this vote was excluded on account of certain alleged irregularities in the manner of conducting the election and certifying the returns. No fraud is pretended. The nature of the irregularities will be examined hereafter. It is enough for our present purpose to say that the vote was excluded in the canvass for irregularities merely, and consequently does not appear in a count, which gives a majority of 100 for the constitution.

2. A large number of the soldiers who enlisted at the commencement of the war and until the present time have served in the First Regiment of Nebraska Volunteers, were from Iowa. They lived in that State at the time of their enlistment. During the war, commissioners have been sent by the governor of that State to take their votes at the State elections, and they have voted at such elections as Iowa soldiers. They did so as recently as last fall. These soldiers were on the 2d of June stationed at Fort Kearney. A poll

was held then at which 134 soldiers voted for and 34 against the constitution. Of the former at least 40 were Iowa soldiers, and never resided in Nebraska save when on military service therein. Section 5 of the organic act provides that "no soldier shall be allowed to vote or hold office in said Territory by reason of being in service therein."

3. Col. Matthewson, agent of the Winnebago Indians, had, on the 2d of June, been in Nebraska only four months; whereas the laws of the Territory require six months residence to constitute a qualified elector. He had 18 half-breeds of that tribe voted at the reservation for the constitution.

4. In Merrick county is a precinct known as Poll Creek, at which an election was regularly held, and a majority of 11 given against the constitution. The county clerk threw out this vote, for alleged irregularities of the same character as those at Rock Bluffs, and of course it was not counted in the canvass which gave a majority of 100 for the constitution.

These statements sum up as follows:

1. Rock Bluffs precinct.....	78
2. Iowa soldiers .....	40
3. Col. Matthewson and his half-breeds....	19
4. Poll Creek precinct.....	11
<hr/>	
Illegal and suppressed votes.....	148
Deduct the majority claimed.....	100
<hr/>	

Majority against the constitution..... 48

No attempt is made here to show all the illegal votes cast for the constitution. If prosecuted thoroughly, such an attempt would, it is believed, show that that instrument was rejected by a clear majority of 200 qualified electors. Our purpose is answered as well by showing a majority of 20 as of 1,000.

The territorial canvassing board, notwithstanding all the above illegal and suppressed votes, show that Mr. Morton, the Democratic candidate for governor, received 3,948 votes, and, according to the official canvass, was defeated by 145 votes; while the constitution received only 3,923 votes, and was carried by 100 majority.

The whole number of votes said to have been polled both for and against the constitution is 7,746, while the whole number of qualified electors in Nebraska is at least 12,000.

## THE BALANCE OF POWER.

The House of Representatives contained 38 members. The seats of the four members from Cass county were contested. Excluding these four, the House stood 17 Democrats and 17 Republicans. The party which secured the Cass county representation would, of course, be in the majority. The Senate contained 13 members. The seats of the senator from Cass and of the senator from Cass, Lancaster, Saline, etc., were contested. Excluding those two seats, the Senate stood six Democrats and five Republicans. Here, too, Cass held the balance of power. But the board of county canvassers issued certificates of election to the Republicans, which at the organization of each House gave them the seats and placed the Democrats in the attitude of contestants. Until the House should declare the latter entitled to their seats, the former participated in the action of the Legislature as any other members, and the House stood 21 Republicans to 17 Democrats, and the Senate stood 7 Republicans to 6 Democrats. The constitution provided that the territorial election law should continue in force until amended or repealed by the State authorities. This law provided for the prosecution of contests between persons claiming adversely to be elected to either House of the Legislature. In pursuance of it, each Democrat claiming to be elected, served upon each Republican who held the county certificates, notice of contest and of the taking of depositions in support of his claim. Voluminous testimony was taken on both sides. When the House was organized, (and we present the facts as they transpired there, for the sake of brevity,)—these contests were duly brought forward and referred to the committee on privileges and elections. This committee refused to consider or read, or so much as open the depositions taken. The majority reported to the House a series of resolutions—one of which declared that Samuel Maxwell, one of the sitting members, was entitled to his seat; another of which declared the same of Mr. Bell, and so on, until the seat held by each Republican was in its turn separately awarded to him. The minority, in their report, reviewed the evidence at length, showed that the contestants were entitled to their seats, and recommended a single resolution accordingly. Without debate, without hearing the evidence, and without consideration, the House laid the minority report on the table, and brought the four resolutions recommended by the majority to a vote one by one. In this<sup>n</sup> operation the sitting members moved the



previous question five times and were sustained by their friends. And so it happened when the vote was taken upon that declaring Samuel Maxwell entitled to the seat he occupied in the House, 17 Republicans who were entitled to seats in that body, voted aye; 17 Democrats voted nay; and Mr. Maxwell's colleagues, Mr. Bell, Mr. Hathaway, and Mr. Chapin voted aye; whereby the vote was made to stand 20 to 17. So Mr. Maxwell retained his seat. And so when the resolution in favor of Mr. Bell was brought forward, the members entitled to vote stood 17 to 17, and Mr. Maxwell took Mr. Bell's place in voting, and, with Mr. Hathaway and Mr. Chapin gave the sitting member his seat. The same farce was played for the benefit of Mr. Chapin and Mr. Hathaway in succession. The same practice obtained in the Senate and defrauded the Democracy out of three seats in that body. When this system of mutual support and alternate voting had disposed of the six contests from Cass, the two Houses went into joint convention, for the election of United States senators. Fifty votes were cast on the first ballot—all the Republicans, 28 in number, for T. W. Tipton, and all the Democrats, 21 in number, voting for J. Sterling Morton. On the second ballot the same number of Republicans voted for John M. Thayer, and the same number of Democrats voted for A. J. Poppleton. Had the six seats of the members from Cass been occupied by Democrats, who had been fairly elected, the vote would have stood for Mr. Morton and Mr. Poppleton, 27, and for Mr. Tipton and General Thayer, 23.

#### THE SOURCE OF POWER.

We have stated that the vote of the Rock Bluffs precinct was suppressed by the board of county canvassers. Again, for the sake of brevity, we will consider the effect of that action upon the election of the members of the House of Representatives. If that vote had been counted by the canvassing board, all of the Democrats would have been elected by majorities varying from 4 to 21. That vote being suppressed the Republicans appeared to be elected by a vote varying from 25 to 42. The act of the county board, then, in suppressing that vote, and awarding the certificates of election to the Republican candidates, gave the organization of the House to that party, placed it in the power of those candidates to vote for themselves on the resolutions of the majority of the election committee, and thus gave the House permanently to the Republicans. The same is true of the Senate. The same is likewise true of the

joint convention which elected senators. In determining whether Nebraska shall become a State, in electing the representation of Cass county in the Legislature, in deciding the political complexion of the two Houses, in electing United States senators, the source of power is the board of county canvassers.

#### THE LITTLE JOKER.

The authority of this board is derived from the sections 19, 21, and 22, of the election law of the 15th of February, 1864. Section 19 requires the judges of election in each precinct to enclose one of the poll books and tally lists in a sealed envelope, and direct and convey the packet to the county clerk. Section 21 requires the county clerk, together with two free-holders of the county to be selected by him to open the several packets, and make abstracts of the votes therefrom. Section 22 provides that after the abstracts are made, the persons having the highest number of votes shall be declared duly elected, and the county clerk is required to issue the certificates accordingly. From these provisions of the law, it is apparent that the county board have no power to go behind the returns made by the precinct judges of election. If frauds have been perpetrated, the remedy elsewhere is provided. But the county board usurped the power. The law requires the several county boards to make their returns to the territorial board, composed of the governor and other officers. The provisions prescribing the powers and duties of the territorial board are the same as those prescribed in the sections above cited for the county board. When the territorial board had assembled to canvass the returns, proper representations were made to it of the action of the Cass county board. Its members were appealed to, to undo the wrong, but it refused to do so, alleging that its powers were ministerial,—merely to count the returns made to it, and simply declare such result as the returns of the county clerks showed. Thus the very same terms of the law are construed to authorize one set of officials to go behind returns made to them and not to authorize another set of officials to go behind returns made to them. The law may be used to commit the wrong of disfranchising a community; it cannot be used to redress such a wrong. And not only is there no remedy; there is no punishment for the wrong-doer. The county clerk is selected under territorial laws, and exercises his office under the authority of the Territory. At the

time these acts were committed there were no State courts no State laws. The Territory cannot punish him for the election and his action was outside of its authority. The State cannot punish him, for it did not exist and had no laws to be violated when the offense was committed. And so he escapes. He knew this at the time. After the county canvass was held, he hesitated in issuing the certificates. A distinguished judicial officer laid his fears of punishment to rest, and thereupon he committed the act.

#### HOW THE COUNTY CANVASS WAS CONDUCTED.

In the contest for seats in the two Houses, this county clerk, Burwell Spurlock by name, was examined. His deposition is full of evasions, contradictions and inconsistencies. We cannot take up our space in showing by them what manner of man he is. This, however, is the account which he gave of the manner in which the canvass was conducted. He, a Republican, selected two persons as free-holders, who were also Republicans, to act with him. They retired to a room which they locked and kept locked during the session. One of the board during the session went out and brought in W. F. Chapin, who was one of the Republican candidates for representative. Mr. Chapin was sworn by the county clerk and testified that the precinct election board adjourned an hour at noon and an hour at evening, for dinner and supper, and that one of the judges took the ballot box home with him each time. No other testimony was taken. The board had before it a remonstrance, protesting against counting the vote of Rock Bluffs. It was written by Major D. H. Wheeler, agent of the Pawnee Indians, and signed by two residents of that precinct and one of Plattsmouth. The clerk had been informed of the adjournments by Democrats to whom he applied for information. Upon the strength of this evidence—of the production of which the other side were not in any manner notified—in this secret manner this board determined to, and did suppress the vote of Rock Bluffs. Such is Mr. Spurlock's testimony.

#### THE CAUSES ALLEGED.

In order to place upon the record, side by side with this section, their apology for it, the board drew up and filed a paper called a "report." In this they allege as the reasons for their action, fraud, the irregularity in adjourning the polls at noon and evening, and the fact that the poll book and tally sheet were not separately certified. Let us examine these three reasons separately.

1. The charge of FRAUD. Mr. Spurlock himself swears that there was no evidence of fraud, but that the board thought that there was "*possibility of fraud.*" On the other hand, the judges and clerks were sworn and they all agree in this statement: at noon Mr. Hutchinson, the senior judge, declared the poll closed for one hour. Mr. Murray, another judge, locked the ballot box securely and put the key in his pocket, and then the poll books were locked in a desk, Mr. Murray also taking the key. Mr. Hutchinson and Mr. Smith, one of the clerks, took the box and went to the house of the former to dinner. Mr. Murray went in another direction to his dinner. During the interval Mr. Hutchinson and Mr. Smith both had the box constantly in their view, and it was not opened or otherwise tampered with. All the members of the board met at the door of the house, about the same time after dinner, and went in together. The poll books had not been disturbed. The same thing was done at 6 o'clock in the evening. Each adjournment was about an hour in length. No one was deprived of the opportunity of voting by the adjournment. And all whose names were on the poll book voted, and all but one of them were qualified electors. As if to show the utter impossibility of fraud, the ballots cast were produced and the number of each was found to correspond with the number on the poll book of the name of the elector who cast it. This statement is in every particular sustained by the evidence produced. It effectually disposes of the wanton charge of fraud.

2. The adjournments are also alleged as reasons for the action of the board. The facts touching this pretense are stated above. The board itself certainly did not consider them as justifying their action, for in the Mount Pleasant and the Weeping Water precincts, the same thing occurred. As those precincts gave decided majorities for the constitution and the Republican ticket, no objection was taken to their action. It was different in the case of a precinct which voted the other way.

3. The statute evidently contemplates that the poll book and tally list returned to the county clerk, shall be separately certified by the judges and clerks of election. At Rock Bluffs the poll book, tally list, and abstract, which are required to be made out and returned, were all bound up together in a book, and one certificate to all of them appeared at the end. The clerks and judges testify that they did not certify each document by itself, because they supposed the one at the end of them all, was sufficient to have covered

all the three together. This irregularity also occurred at Platts-mouth, but was not considered fatal to its vote. Indeed, these men who are such sticklers for the law, and an exact compliance with its provisions, have themselves failed to observe its requirements. It is required that the clerk shall select, to act with him, "two freeholders of the county." These two freeholders do not appear to be freeholders of Cass, but only freeholders generally; perhaps of Otoe county; perhaps of Iowa. We have already seen that what is good law in one case is not in another. These men acted on this principle in discriminating in their decisions, in favor always of Republican, and against Democratic precincts.

It was never before held that mere irregularities in conducting elections should disfranchise a whole community. The question has been repeatedly decided by the most learned courts, which, in their determinations, have been free from the prejudices and excitements of political assemblies. One of these decisions is that of the Court of Appeals of the State of New York, in the case of *The People vs. Cook*, reported in 6 Selden, 67. On page 86 the Court in a very carefully considered opinion say on the subject of irregularities of the character mentioned above: "There are various duties enjoined by law on the inspectors, (*i. e.* the judges of election,) the great objects of which are: (1.) To afford to every citizen having a constitutional right to vote, an opportunity to exercise that right. (2.) To prevent every one deprived of that right, from voting; (3.) and to conduct the election in such a manner in point of form, that the true number of legal votes can be ascertained with certainty. If all these objects be accomplished to reject the whole vote, because the inspector (*i. e.* the judges) failed to comply with every prescribed regulation, would be to place a higher value on the statute regulation than on the right itself. It would be a sacrifice of substance to form." A multitude of cases deciding the same thing might be cited.

Now let us apply these salutary principles to this case. (1.) It was proved and we have stated above, that no one was deprived of his right to vote by anything that occurred at Rock Bluffs. (2.) With a single exception no one voted who had not the right to vote. (3.) The poll book, verified by the judges and clerks, and the tally list both included in the final certificate of the judges and clerks, show with absolute certainty what was the true number of legal votes. The three objects of the law specified by the court were accomplished. In

its language, "to reject the whole vote, simply because the judges" went home to dinner and supper, and certified the poll book and tally sheet at the end of the abstract instead of separately, "is to place a higher value on the statute regulation than on the right itself. It would be a sacrifice of substance to form." To reject the whole vote for the reason that five men did not do their exact duty, is to say that five men have it in their power at any time to disfranchise five thousand. It is giving to five men the power which in this case three men usurped. No court ever so held; no honest man will ever so decide.

#### THE RECORD OF THE CANVASSERS PRESERVED.

Alvin Saunders, the governor, A. S. Paddock, the secretary, and William Kellogg, the chief justice, all of them with the radicals, and aspirants for seats in the United States Senate, are the learned arithmeticians who counted the votes for the constitution and declared it carried. The following table is their production:

Table of the vote given in Nebraska, June 2d, 1866.

County.	Constitution.		Governor.	
	For.	Against.	Butler, rep.	Morton, dem.
Burt.....	222	42	125	112
Buffalo.....	1	41	10	32
Cedar.....	12	39	29	31
Cumming.....	31	41	28	51
Cass.....	233	480	375	377
Dixen.....	34	36	30	30
Dakota.....	106	32	87	107
Douglas.....	491	572	426	645
Dodge.....	96	45	110	33
Gage.....	96	61	116	89
Hall.....	2	29	10	27
Johnson.....	108	69	121	76
Jones.....	32	13	50	2
Kearney.....	21	7	22	28
L'e qui cor.....	..	..	10	1
Lancaster.....	95	53	112	53
Lincoln.....	30	20	16	36
Merrick.....	16	8	16	8
Nemaha.....	346	489	533	306
Otoe.....	432	870	462	882
Platte.....	133	55	90	89
Pawnee.....	233	32	238	32
Richardson.....	503	373	487	409
Sarpy.....	109	231	106	235
Seward.....	23	24	28	14
Saline.....	5	54	11	50
Washington.....	404	89	283	205
Co. A Vol.....	62	1	63	..
Co. C ".....	..	..	29	..
Co. F ".....	42	1	42	1
Co. G ".....	16	..	5	11
Co. K ".....	14	30	13	29
Total vote.....	3938	3838	4093	3948
Majority.....	100		145	

Scattering, Kearney, 10; Seward, 11. Total, 21.

A radical board of canvassers thus declared the Democratic State ticket defeated. This declaration is made by refusing to count the votes of 158 *bona fide* citizens of the Rock Bluffs precinct in Cass county, and at the same time counting the soldier vote of men who lived anywhere but in Nebraska. We can illustrate this subject by an analysis of the respective votes given to David Butler, candidate for governor, a very strong leader of radicals in Nebraska, and his opponent, Morton, the Democratic candidate for governor:

Butler's entire vote is.....	4,093
We deduct from this the soldier's vote cast for him.....	152
And his citizen's vote is shown to be just.....	3,941
By throwing out Rock Bluffs vote Butler lost.....	50
Adding that 50 we have exactly.....	3,991

That is to say, Butler has a citizen's vote of 3,991.

Morton's entire vote is.....	3,948
We deduct from this the soldier's vote cast for him.....	41
And his citizen's vote is shown to be just.....	3,907
By throwing out Rock Bluffs, Morton lost 107, add that in....	107
And we will find his citizen's vote to be.....	4,014

That is to say, 4,014 citizens voted for Morton for governor, and that honestly and legally elected him, by a majority of just 23 votes over David Butler.

Thus the entire Democratic ticket was elected by the legal home vote of the *bona fide* citizens of Nebraska. That ticket was:

For Governor, J. Sterling Morton.  
 For Secretary of State, Charles W. Sturgis.  
 For Chief Justice, Wm. A. Little.  
 For Assistant Justices, B. E. B. Kennedy, E. W. Thomas.  
 For Treasurer, St. John Goodrich.  
 For Auditor, Guy C. Barnum.  
 For Member of Congress, John R. Brooke.

The law, so called, submitting the constitution for the State of Nebraska to a vote of the people, declares that if the constitution

shall receive "a majority of the legal votes cast," it shall be declared adopted.

The aggregate vote given for the respective candidates for governor is between eight and nine thousand according to the table above. But the entire vote for the constitution is only three thousand and nine hundred and thirty-eight, and yet Saunders, Paddock & Co., declare it to have received a majority of the legal votes cast. Less than four thousand is so declared by these gentlemen a majority (or more than one half,) of more than eight thousand.

#### THE NAMES PRESERVED.

E. B. Taylor, superintendent of Indian affairs, editor of *The Omaha Republican*, and author of the radical platform upon which Butler ran, was a prime mover for State and against the policies of President Johnson. He was ably supported in his radicalism by William Kellogg, chief justice; A. S. Paddock, secretary; A. Saunders, governor; E. S. Dundy, associate justice; George Smith, postmaster at Omaha; Indian Agents Wheeler, Norris, Furnas, Matthewson, and Land Officers Trumbull, Buck, Waters, and in fact by each and every one of the federal officials in the Territory of Nebraska except, perhaps, three!

No true friend of the reconstruction policies of President Johnson, having read the veto message of the president in the Colorado case, could or would advocate the adoption of Statehood by Nebraska. But few earnest friends of the Union and conservatism in Nebraska made strenuous efforts for the adoption of the constitution, though politically the word "white" being prominent in its qualifications for electors, it was palatable to all conservatives. With a few honorable exceptions State was advocated only by debilitated politicians who had, under their commissions from the president, temporary homes in Nebraska, and they were seeking offices for themselves and caring nothing for the people. They were cheats and remain unchanged.

Electors of Nebraska: We have, in all candor, calmness and honesty detailed to you the history of the last scheme to force a State government upon you, against your will. We have shown you how men who did not reflect your views, succeeded in stealing their way into your Legislature. We have shown you how others were perverted to aid a measure which neither they nor their constituents approved; how the constitution was passed the Legislature, not



as reflecting the wisdom of that body, but as furthering the designs of selfish men; how it was represented to have received the approval of when in fact it was rejected by the people. We have shown that the men who did these things, were not content with them, but pursued their game to the end and certified into the Legislature men who were never elected; in violation of the rights not of one precinct only, but of the Territory, and thereby elected two radical senators, whereas conservative men were entitled to that distinction. In the hands of such men nothing is safe; popular elections are futile; popular majority nonentities; their own unbridled will is all in all.

J. G. Megeath,  
M. H. Wilbur,  
Senators from Douglas.

O. Stevenson,  
S. H. Callhoun,  
Senators from Otoe.

David Leach,  
Senator from Sarpy and Dodge.

J. W. Paddock,  
Phillip O'Hanlon,  
William Denton,  
A. J. Crichfield,  
V. Buckley,

Members of the House from Douglas.

Albert Tuxbury,  
James Thorn,  
E. S. Reed,  
J. Graves,  
D. M. Anderson,

Members from Otoe.

James E. Boyd, Member from Buffalo.  
E. H. Thomas, " " Burt.  
Russ H. Wilbur, " " Dakota.  
E. A. Baker, " " "  
Theo. H. Robertson, " " Sarpy.  
James Smith, " " "





